IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 7819 of 2004

Between:

ShaikNoorMohammed,S/o.Mohd.Shareef,

Conductor, E-205411 of APSRTC, Working at presently at Rajendranagar APSRTC, Bus Depot,R/o.2-3-529/1,polytechnicCollege, Ameerpet, Hydrabad.

..... PETITIONER

AND

1 Divisional Manager, APSRTC, Charminar Division,
Koti Terminus, Hyderabad.
2 Depot manager, APSRTC, Falaknuma Depot, Engine Bowli, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent, who is the appellant authority also, in issuing transfer order No.P1/813(2)/2004-DVM(CRMR) dt.19-2-2004 to the petitioner, depriving his legal rights for filing appeal against the 1st respondent's impugned order which was issued without applying his mind, without issuing charge sheet, without calling explanation, without conducting prima facie investigation, without enquiry, nor recording confronting statements of the duty driver due to him only the bus was running by one hour forty minutes late including 35 minutes late time of supplying bus from the 2nd respondent, without fixing up the responsibility on the petitioner and not showing the reasons of exonerating the driver for giving him from late running the bus and taking action against the petitioner for the late running of bus is as illegal, unjust, contrary to law and in violation of Articles of natural justice by granting all consequential benefits and issuing directions to the 1st respondent to issue re-transfer order to Falaknuma Depot where the "P" case and LPC records of the petitioner is kept and since two months no salary has been paid at Rajendranagar Depot to the petitioner for want of his LPC and "P" case.

For the Petitioner: MR.MOHD.GHOUSUDDIN, Advocate.

for the Respondent : MR.K.HARINATH FOR RVAK,Advocate.

The Court made the following :

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO.7819 OF 2004

ORDER:

This writ petition is filed challenging the transfer order dated 19.2.2004 in No.P1/813(2)/2004-DVM(RMR) of the first respondent wherein the petitioner herein was transferred from Falaknuma Depot to Rajendernagar Depot within the same division.

The learned counsel for the petitioner submits that without initiating any disciplinary proceedings and without issuing any charge sheet, transferring his services is illegal and the said transfer has been made as a measure of punishment.

A perusal of the transfer order clearly discloses that pending disciplinary action, the petitioner has been transferred basing on the preliminary enquiry report. In the counter it has been stated that the charges were framed vide charge sheet dated 16.2.2004, i.e., prior to the date of issuance of the impugned transfer order, and the said charge sheet reads as follows:

> " For having un-authorizedly cancelled the round trip between Charminar and Sanathnagar (33kms.) of your service FM.102/2 to which you were booked on 27.1.2004, resulting in loss of revenue to the corporation besides causing inconvenience to traveling public which constitutes misconduct in terms of Regulation 28(ix)(a) of APSRTC Employees (Conduct) Regulations63."

Therefore, it cannot be said that the transfer order has been made as a measure of punishment. In view of the aforesaid charges levelled against the petitioner and also in view of the fact that disciplinary proceedings are pending, transferring him from Falaknuma Depot to Rajendernagar Depot within the same division, is not illegal or against any statutory provision. Therefore, I am not inclined to interfere with the aforesaid transfer order as the respondents have not violated any statutory provisions or the action of the respondents is *mala fide*.

Accordingly, the writ petition is dismissed as the same is devoid of merits. No

order as to coasts.

23.7.2004.

mdaa.

Copy to:

1 The Divisional Manager, APSRTC, Charminar Division,
Koti Terminus, Hyderabad.
2 The Depot manager, APSRTC, Falaknuma Depot, Engine Bowli, Hyderabad.

3. Two C.D.Copies.